IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21374 of 2004

Between:

S.Mahaboob Basha, S/o Badesaheb,
Dhone Depot, Kurnool, Kurnool District

..... PETITIONER

AND

1 The APSRTC rep.by its Regional Manager, Kurnool Region, at Kurnool, Kurnool District
2 The Depot Manager, APSRTC Dhone Depot, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the questioning the action of the respondent herein in deleting the name of the petitioner from the selection list on the allegation of not reporting for duty without holding any departmental enquiry vide Proc.No.P1/1(63)/2001-Dhone, dated 29-11-2001 as illegal, unjust and arbitrary, contrary to the regulations of the corporation, against to the principles of natural justice and as such liable to be set aside in the interest of justice.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents : MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court, at the stage of admission, made the following:

ORAL ORDER

The petitioner is contending that he was appointed as a Driver in the respondents-Corporation in pursuance of a selection. After successful completion of training he was allotted duties vide proceedings dated 04-06-1999. During the period of strike of the regular employees from 15.10.2001 to 07.11.2001, the petitioner was directed to report to duty, but due to lack of information he did not report to duty. Subsequently, when he reported to duty, he was informed that his name was deleted from the selection list without issuing charge sheet or show cause notice. The respondents passed an order on 29.11.2001 directing deletion of name of the petitioner from the approved list of selected candidates. Since the petitioner failed to report to duty to engage him as a daily wage driver, his name was deleted from the selection list. The petitioner, therefore, approached this Court through this writ petition, seeking a direction to the respondents to restore his name in the list of selected candidates and reinstate him into service.

It is an undisputed fact that the petitioner was selected on the basis of regular selection. His services were being utilized as a casual Driver as and when required. Under the similar circumstances, a Division Bench of this Court gave a Judgment on 29.08.2003 in Writ Appeal No.1259 of 2003, upholding the order of the learned Single Judge who held that it is not permissible for the Corporation to remove the name of the workman from the selected list, when the selection was made through a regularly constituted board. In the present case also, if the Corporation comes to a conclusion that non reporting to duty, amounts to dereliction of duty, the Corporation is at liberty to initiate action against the petitioner and after a detailed inquiry, may pass appropriate orders according to Rules, but, without giving any opportunity, removing the name of the petitioner from the list of selected candidates is against the principles of natural justice. The action of the respondents in removing the name of the petitioner from the list of selected candidates is arbitrary. Therefore, such action is liable to be corrected by directing the respondents to restore the name of the petitioner to the selection list.

In the light of the above circumstances, the action of the respondents in

deleting the name of the petitioner from the list of selected candidates is quashed. The respondents are directed to restore the name of the petitioner into the list of selected candidates and continue to engage him as he used to be engaged previously till an action, if any, taken by the respondents for the absence of the petitioner in response to the notice and the punishment, if any, going to be imposed.

With the above said observation, the writ petition is allowed. No order as to costs.

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K.C.BHANU,J

23rd NOVEMBER 2004

*TSNR

TO

1. The Regional Manager, Kurnool Region, A.P.S.R.T.C. Kurnool,Kurnool District.
2. The Depot Manager, A.P.S.R.T.C. Dhone Depot, Kurnool District.
3. Two C.D.Copies